(a) that ad hoc admissions under s 7 of the Act are not a matter of right and are granted only at the discretion of a judge;
(b) that the legal profession in Brunei is now of sufficient size and experience for it to be able to deal with most cases;
(c) that it is in the public interest to encourage a strong local legal profession;
(d) that overseas counsel should only be admitted ad hoc if they have special qualifications or experience for the purpose of a case;
(e) that, in exercising the discretions I should follow the principles set out in the Hong Kong cases of *Re Charles Gray*;[1] *Re AR Tyrrel QC*;[2] *Re Coles QC*[3] and *Re Goldblatt QC*.[4]

So far as the application is concerned, I have no hesitation in allowing it. It would, in my view, be wrong to refuse it for the following reasons:

(a) ad hoc admissions have in the past been freely granted under the Act and its predecessor the Advocates Enactment 1957;
(b) the applicant was given no indication, on 16 June, that there would be any opposition to his admission for the case;
(c) to refuse his admission so close to the date of trial would be hard on his client, who would have to replace him at very short notice;
(d) I am not prepared to lay down a series of rules, which would have the effect of restricting ad hoc admissions, on the ground that the public interest so requires, without the benefit of argument from the Attorney General.

The Act requires that any application for admission must be served on the Attorney General so that he may, if he so decides, oppose it. If he does not indicate any objection, I must take it that, in his view, the public interest, which he represents in this connection, does not argue against the admission sought.

As the legal profession in Brunei becomes larger and more experienced, the public interest may well require that some degree of protection be given to it and that this may be achieved, in part, by a restricted use of the discretion to admit under s 7. However, before adopting any such policy, I would want to have the benefit of the Attorney General's view.

I comment in passing that s 7 is in very wide terms, in that it permits the ad hoc admission of:

(a) a Queen's Counsel;
(b) any person residing outside Brunei;
(c) any person with special qualifications or experience.

Counsel sought to persuade me that (b) and (c) are cumulative, ie that a person to be admitted must show both that he is resident outside Brunei and that he has special qualifications.

I do not read the section in that way. I see the three paragraphs as alternatives.

Thus if Mr Singh qualifies under para (b), as he does, I do not have to decide whether he has special qualifications or experience.

Paragraph (b), however, should be applied with discretion. Its terms are wide enough to permit the ad hoc admission of non-resident persons with no legal qualifications or with legal qualification in a foreign country with a different legal system.

It may well be, though I do not have to decide the point here, that in a future applicaton I would exercise my discretion so as to grant applications based on para (b) of s 7(1) only to those who are qualified persons as defined in s 3 of the Act, though this would not prevent the admission also of those who satisfy para (c).

In case future applications are challenged, I advise anyone who intends to apply for an ad hoc admission to do so at least one month before the beginning of a trial, so that any objection may be dealt with in time for the applicant to be replaced if his application is unsuccessful.

I allowed the application and admitted the applicant to practice for the purpose of Civil Suit No 299 of 1986.

I made no order as to costs.

*Application allowed.*

Solicitors: *Yu & Co; Choo Chan & Wong.*

Reported by *Ng Sheau Jiuan*

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## Re Anthony Tai Fook Hin

HIGH COURT (BANDAR SERI BEGAWAN) – ORIGINATING MOTION NO 17 OF 1988
ROBERTS CJ
11 AUGUST 1988

*Legal Profession – Advocate and solicitor admitted in Brunei but not having obtained practising certificate – Ad hoc admission for appearance in a particular case – Application under para (b) of s 7(1) of Legal Profession Act (Cap 132), s 7(1)(b)*

*Words and Phrases – To appear on the instructions of an 'advocate and solicitor' – Meaning of*

The applicant was admitted as an advocate and solicitor in Brunei in 1987 and 1988 but he had not yet obtained a practising certificate for 1988. He sought ad hoc admission under s 7 of the Legal Profession Act (Cap 132) as he was retained directly by a client who is the defendant in a criminal case pending in Brunei.

**Held,** rejecting the application:
The applicant was not qualified under para (b) of s 7(1) of the Act because he had not been retained in the case in question

to appear on the instructions of an 'advocate and solicitor' since the reference to the latter in para (b) must be taken to mean 'an advocate and solicitor of the Supreme Court of Brunei'.

**Case referred to**
1 *Re Jagjit Singh* [1989] 1 MLJ 26 (distd)

**Legislation referred to**
Legal Profession Act (Cap 132) ss 3, 7(1)(b)

*Douglas Lind* for the applicant.
*Ivan Leong* for the Attorney General.

*Cur Adv Vult*

**Roberts CJ:** Mr Anthony Tai was admitted as an advocate of the High Court of Borneo on 12 December 1970. He is thus a qualified person for the purposes of s 3 of the Legal Profession Act (Cap 132) ('the Act') by virtue of para (d) of that section. Indeed, I am instructed that he was admitted as an advocate and solicitor in Brunei in 1987 and 1988 but he has not yet obtained a practising certificate for 1988. He is therefore obliged to seek ad hoc admission under s 7 of the Act.

Mr Tai is not qualified under para (b) of s 7(1) of the Act because he has not been retained in this case to appear on the instructions of an 'advocate and solicitor', since the reference to the latter in para (b) must be taken to mean 'an advocate and solicitor of the Supreme Court of Brunei'. It appears that, in this instance, Mr Tai was retained directly by the client who is the defendant in the criminal case for which Mr Tai seeks ad hoc admission. Mr Tai, therefore, if at all, must qualify under s 7(1)(c) of the Act as having 'special qualifications or experience for the purpose of the case'.

Mr Tai has appeared in a number of cases under the Gambling Ordinance of Sarawak which, he says, is in similar terms to that of the Brunei Ordinance. According to Mr Tai, he has had experience in dealing with criminal matters relating to gambling offences. There is, however, nothing to suggest that the case for which he has been retained in any way unusual. I can see no reason why a Brunei advocate and solicitor should not be more than competent to deal with a matter which, though no doubt of great importance to the client, seems, in other respects, to be a common one.

This application differs from that of *Re Jagjit Singh*,[1] on which I expressed a different opinion in 1987. In this case, the admission ad hoc of the applicant has been opposed by the Attorney General on the ground that the case concerned is one of a usual nature and that the skill involved in a gambling case can be found in the legal profession in Brunei. So far as I know, no efforts have been made by the defendant to retain an advocate and solicitor from the profession in Brunei.

I should make it clear that although s 7(1)(c) of the Act is in very wide terms so as to permit the admission ad hoc of persons not qualified in Brunei, I should find it difficult, in practice, to exercise my discretion so as to permit the admission ad hoc of a person who is not qualified to appear in accordance with s 3 of the Act.

For these reasons, in my view, the application of Mr Anthony Tai must be rejected.

*Application dismissed.*

Solicitors: *Douglas Lind & Co.*

Reported by *Ng Sheau Jiuan*

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## Re William Thomas Jacks

HIGH COURT (BANDAR SERI BEGAWAN) – ORIGINATING MOTION NO 30 OF 1988
ROBERTS CJ
11 AUGUST 1988

*Legal Profession – American lawyer – Ad hoc admission for appearance in a particular case – Whether applicant had special qualification or experience – Legal Profession Act (Cap 132), ss 3 & 7(1)(b) & (c)*

J, an American lawyer, applied for admission ad hoc to appear for the purposes only of High Court Civil Suit No 187/81. He was not a qualified person under s 3 of the Legal Profession Act. He wished his application to be dealt with both under paras (b) and (c) of s 7(1) of the Act.*

* Sections 3 and 7(1) of the Brunei Legal Profession Act (Cap 132) provide as follows:

3 A person shall be a qualified for the purpose of this Act if he –

(a) has had conferred upon him the degree of Bachelor of Laws in the University of Singapore or in the University of Malaya, or such other university or establishment as may be prescribed; or
(b) is a barrister-at-law of England or of Northern Ireland; or a member of the Faculty of Advocates in Scotland; or
(c) is a solicitor in England or Northern Ireland or a Writer to the Signet, law agent or solicitor in Scotland; or
(d) has been in active practice as an advocate and solicitor in Singapore or any part of Malaysia for such continuous period immediately preceding his petition for admission under this Act as may be prescribed; or
(e) has attained such alternative qualification as may be prescribed.

7(1) Notwithstanding anything to the contrary contained in this Act a judge may for the purpose of any one case admit to practice as an advocate and solicitor any person who –

(a) holds Her Britannic Majesty's Patent as Queen's Counsel;
(b) does not ordinarily reside in Brunei but who has come or intends to come to Brunei for the purpose of appearing in the case on instructions of an advocate and solicitor; or
(c) has special qualifications or experience for the purpose of the case.